

MONTANA LEGISLATIVE HISTORY

Chapter 66 19 55Bill H _____ S 52 Original bill & history ☒ cH. Committee on Local GovernmentS. Committee on Local GovernmentHearing Date(s) Feb 07 ☒ cHearing Date(s) Jan 19 ☒ c_____ ☐ cJan 24 ☒ c_____ ☐ c_____ ☐ c_____ ☐ c_____ ☐ cDate Out Feb 08 ☒ cJan 25 ☒ cDid this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1/04 REFERRED TO HIGHWAYS & TRANSPORTATION
 1/04 FISCAL NOTE REQUESTED
 1/10 FISCAL NOTE RECEIVED
 1/13 FISCAL NOTE PRINTED
 1/19 HEARING
 1/26 TABLED IN COMMITTEE
 2/23 MISSED TRANSMITTAL DEADLINE FOR 45TH DAY
 DIED IN COMMITTEE

SB 52 INTRODUCED BY HARP

CLARIFY ANNEXATION LAW BY SUBSTITUTING REAL PROPERTY OWNERS
 FOR FREEHOLDERS AND, WITH RESPECT TO MUNICIPAL ANNEXATION
 WITH THE PROVISION OF SERVICES LAWS, BY SUBSTITUTING REAL
 PROPERTY OWNERS FOR RESIDENT FREEHOLDERS

1/04 INTRODUCED
 1/04 FIRST READING
 1/04 REFERRED TO LOCAL GOVERNMENT
 1/19 HEARING
 1/25 COMMITTEE REPORT—BILL PASSED AS AMENDED
 1/26 2ND READING PASSED 48 0
 1/27 3RD READING PASSED 48 1

TRANSMITTED TO HOUSE
 1/30 FIRST READING
 1/30 REFERRED TO LOCAL GOVERNMENT
 1/31 HEARING
 2/08 COMMITTEE REPORT—BILL CONCURRED
 2/09 2ND READING CONCURRED 82 14
 2/10 3RD READING CONCURRED 87 12

RETURNED TO SENATE
 2/13 SIGNED BY PRESIDENT
 2/13 SIGNED BY SPEAKER
 2/14 TRANSMITTED TO GOVERNOR
 2/15 SIGNED BY GOVERNOR
 CHAPTER NUMBER 66
 EFFECTIVE DATE: 02/16/95

SB 53 INTRODUCED BY COLE

REVISE THE DEFINITION OF "SPECIAL FUEL" AND OF "SPECIAL FUEL USER"
 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

1/04 INTRODUCED
 1/04 FIRST READING
 1/04 REFERRED TO HIGHWAYS & TRANSPORTATION
 1/05 FISCAL NOTE REQUESTED
 1/10 FISCAL NOTE RECEIVED
 1/11 FISCAL NOTE PRINTED
 1/17 HEARING
 1/18 COMMITTEE REPORT—BILL PASSED
 1/19 2ND READING PASSED 46 4
 1/20 3RD READING PASSED 46 4

TRANSMITTED TO HOUSE
 1/23 FIRST READING
 1/23 REFERRED TO HIGHWAYS & TRANSPORTATION
 1/30 HEARING
 2/02 COMMITTEE REPORT—BILL CONCURRED
 2/04 2ND READING CONCURRED 97 1
 2/06 3RD READING CONCURRED 95 4

RETURNED TO SENATE
 2/07 SIGNED BY PRESIDENT
 2/07 SIGNED BY SPEAKER
 2/08 TRANSMITTED TO GOVERNOR
 2/09 SIGNED BY GOVERNOR
 CHAPTER NUMBER 43
 EFFECTIVE DATE: 02/09/95

SB 54 INTRODUCED BY ECK

ELIMINATE REQUIREMENT THAT DEPARTMENT OF REVENUE MAKE
 RECOMMENDATIONS FOR IMPROVEMENTS IN STATE'S SYSTEM OF
 TAXATION AND FOR ALTERNATIVE TAX MEASURES IN ITS BIENNIAL
 REPORTS

BY REQUEST OF THE DEPARTMENT OF REVENUE

1/04 INTRODUCED
 1/04 FIRST READING
 1/04 REFERRED TO TAXATION
 1/09 HEARING
 1/10 COMMITTEE REPORT—BILL PASSED
 1/11 2ND READING PASSED 49 0
 1/12 3RD READING PASSED 48 0

TRANSMITTED TO HOUSE
 1/13 FIRST READING
 1/13 REFERRED TO TAXATION
 1/20 HEARING
 1/21 COMMITTEE REPORT—BILL CONCURRED
 1/23 2ND READING CONCURRED 83 15
 1/24 3RD READING CONCURRED 79 19

RETURNED TO SENATE
 1/25 SIGNED BY PRESIDENT
 1/26 SIGNED BY SPEAKER
 1/27 TRANSMITTED TO GOVERNOR
 1/27 SIGNED BY GOVERNOR
 CHAPTER NUMBER 9
 EFFECTIVE DATE: 10/01/95

SB 55 INTRODUCED BY ECK

CLARIFY RESPONSIBILITY OF DEPARTMENT OF FAMILY SERVICES FOR
 PAYMENT OF ADMINISTRATIVE COSTS ASSOCIATED WITH PROVISION
 OF PROTECTIVE SERVICES

1/04 INTRODUCED
 1/04 FIRST READING
 1/04 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
 1/04 FISCAL NOTE REQUESTED
 1/10 FISCAL NOTE RECEIVED
 1/11 FISCAL NOTE PRINTED
 1/20 HEARING
 1/26 COMMITTEE REPORT—BILL PASSED AS AMENDED
 1/27 2ND READING PASSED 50 0
 1/28 3RD READING PASSED 44 1

TRANSMITTED TO HOUSE
 1/30 FIRST READING
 1/30 REFERRED TO HUMAN SERVICES & AGING
 2/03 HEARING
 3/02 COMMITTEE REPORT—BILL CONCURRED
 3/02 REREFERRED TO APPROPRIATIONS
 3/30 HEARING
 3/30 TABLED IN COMMITTEE

SB 5 BILL NO. 52

INTRODUCED BY HARP

A BILL FOR AN ACT ENTITLED: "AN ACT SUBSTITUTING REAL PROPERTY OWNERS FOR FREEHOLDERS WITH RESPECT TO MUNICIPAL ANNEXATION LAWS; AMENDING SECTIONS 7-2-4205, 7-2-4305, 7-2-4313, 7-2-4314, 7-2-4323, 7-2-4324, 7-2-4409, 7-2-4502, 7-2-4506, 7-2-4601, 7-2-4606, 7-2-4610, 7-2-4704, 7-2-4705, 7-2-4710, 7-2-4741, AND 7-2-4751, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-2-4205, MCA, is amended to read:

"7-2-4205. Provision of services. In all cases of annexation under current Montana law, services ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

- (1) as provided in 7-2-4736; and
- (2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

Section 2. Section 7-2-4305, MCA, is amended to read:

"7-2-4305. Provision of services. In all cases of annexation under current Montana law, services ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

- (1) as provided in 7-2-4736; and
- (2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

Section 3. Section 7-2-4313, MCA, is amended to read:

"7-2-4313. Contents of notice -- protest period. The notice ~~shall~~ must ~~be to the effect~~ state that:

- (1) ~~such~~ the resolution has been duly and regularly passed; and
- (2) for a period of 20 days after the first publication of ~~such~~ the notice, ~~such~~ the city clerk ~~will~~ receive expressions, in writing, of approval or disapproval of shall accept written comments approving or disapproving the proposed extensions of the boundaries of ~~such~~ the city of the first class from ~~freeholders~~

1 real property owners of the territory area proposed to be embraced therein annexed."

2

3 **Section 4.** Section 7-2-4314, MCA, is amended to read:

4 **"7-2-4314. Hearing on question of annexation -- resolution of annexation.** (1) The clerk shall, at
5 the next regular meeting of the city council of ~~such a~~ city of the first class after the expiration of ~~said 20~~
6 ~~days the 20-day period, lay before the same all communications in writing so forward all written~~
7 communication received by him the clerk for its the city council's consideration. Except as provided in
8 subsection (2), if after considering ~~the same such~~ any written communication the city council ~~shall duly and~~
9 ~~regularly pass and adopt~~ adopts a resolution ~~to that effect~~ approving the annexation, the boundaries of ~~such~~
10 ~~the city of the first class shall~~ must be extended ~~so as to embrace and include such the~~ platted tracts or
11 parcels of land or unplatted land for which a certificate of survey has been filed, ~~the time when the same~~
12 ~~shall go into effect to be fixed by such resolution~~ The resolution must state the date on which the
13 annexation takes effect.

14 (2) ~~Such~~ The resolution ~~shall may~~ not be adopted by ~~such the~~ the city council if disapproved in writing
15 by a majority of the ~~resident freeholders of the territory~~ real property owners of the area proposed to be
16 ~~embraced annexed~~, and ~~no~~ further resolutions relating to the annexation of ~~said territory~~ the area or any
17 portion ~~thereof of the area~~ may not be considered or acted upon by the council on its own initiative, ~~and~~
18 without petition, for a period of 1 year from the date of disapproval."

19

20 **Section 5.** Section 7-2-4323, MCA, is amended to read:

21 **"7-2-4323. Contents of notice -- protest period.** The notice ~~shall must~~ be to the effect state that:

22 (1) ~~such the~~ resolution has been duly and regularly passed; and

23 (2) for a period of 20 days after the first publication of ~~such the~~ notice, ~~such the~~ city or town clerk
24 ~~will receive expressions in writing of approval or disapproval of~~ shall accept written comments approving
25 or disapproving the proposed extensions of the boundaries of ~~such the~~ the city or town from ~~freeholders real~~
26 property owners of the territory area proposed to be embraced therein annexed."

27

28 **Section 6.** Section 7-2-4324, MCA, is amended to read:

29 **"7-2-4324. Hearing on question of annexation -- resolution of annexation.** (1) The clerk shall, at
30 the next regular meeting of the city or town council after the expiration of ~~said 20 days~~ the 20-day period,

1 ~~lay before the same all communications in writing so~~ forward all written communication received by him,
2 ~~the clerk for its~~ the council's consideration. Except as provided in subsection (2), if after considering the
3 ~~same such any written communication the council shall duly and regularly pass and adopt~~ adopts a
4 ~~resolution to that effect~~ approving the annexation, the boundaries of ~~such the~~ city or town of the second
5 ~~or third class shall~~ must be extended so as to embrace and include ~~such the~~ tracts or parcels of land; the
6 ~~time when the same shall go into effect to be fixed by such resolution~~ The resolution must state the date
7 on which the annexation takes effect.

8 (2) ~~Such~~ The resolution ~~shall~~ may not be adopted by ~~such the~~ council if disapproved in writing by
9 a majority of the ~~freeholders~~ real property owners of the ~~territory~~ area proposed to be ~~embraced~~ annexed."

11 **Section 7.** Section 7-2-4409, MCA, is amended to read:

12 **"7-2-4409. Provision of services.** In all cases of annexation under current Montana law, services
13 ~~will~~ must be provided as specified in Title 7, chapter 2, part 47, except ~~where~~ when mutually agreed upon
14 by the municipality and the ~~freeholders~~ real property owners of the area to be annexed."

16 **Section 8.** Section 7-2-4502, MCA, is amended to read:

17 **"7-2-4502. Protest not available.** ~~Such~~ The land ~~shall be~~ is annexed, if so resolved, whether or not
18 a majority of the ~~resident freeholders~~ real property owners of the ~~land~~ area to be annexed object."

20 **Section 9.** Section 7-2-4506, MCA, is amended to read:

21 **"7-2-4506. Provision of services.** In all cases of annexation under current Montana law, services
22 ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

23 (1) as provided in 7-2-4736; and

24 (2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the
25 ~~freeholders~~ real property owners of the area to be annexed."

27 **Section 10.** Section 7-2-4601, MCA, is amended to read:

28 **"7-2-4601. Annexation by petition.** (1) The boundaries of any incorporated city or town, ~~whether~~
29 ~~heretofore or hereafter formed~~, may be altered and new ~~territory or territories~~ areas annexed thereto,
30 ~~incorporated and included therein, and made a part thereof upon proceedings being had and taken as~~

1 provided in this part.

2 (2) The council or other legislative body of ~~any such a~~ municipal corporation, upon receiving a
3 written petition ~~therefor~~ for annexation containing a description of the ~~new territory or territories asked~~ area
4 ~~to be annexed to the corporation~~ and signed by not less than 33 1/3% of the registered electors of the
5 ~~territory~~ area proposed to be annexed, ~~must~~ shall without delay submit to the electors of the municipal
6 corporation and to the registered electors residing in the ~~territory or territories~~ area proposed by the petition
7 to be annexed ~~to the corporation~~, the question of whether the ~~new territory or territories shall~~ area should
8 be ~~annexed to, incorporated in, and~~ made a part of the municipal corporation.

9 (3) (a) The governing body of a municipality need not submit the question of annexation to the
10 qualified electors as provided in subsection (2) if it has received a written petition containing a description
11 of ~~territory~~ the area requested to be annexed and signed by:

12 (i) more than 50% of the resident ~~freeholder~~ electors owning real property in ~~of the territory~~ area
13 to be annexed; or

14 (ii) the owner or ~~all the owners of each parcel~~ 50% of the real property in the territory area to be
15 annexed.

16 (b) The governing body may approve or disapprove a petition submitted under the provisions of
17 subsection (3)(a) upon its merits. When the governing body approves the petition, it shall pass a resolution
18 providing for the annexation."

19
20 **Section 11.** Section 7-2-4606, MCA, is amended to read:

21 **"7-2-4606. Resolution of annexation.** (1) (a) If it is found that a majority of votes were cast in favor
22 of the annexation, the city or town council or other legislative body shall, at a regular or special meeting
23 held within 30 days ~~thereafter~~ of the election, pass and adopt a resolution providing for ~~such the~~
24 annexation.

25 (b) ~~Such~~ The resolution ~~shall must~~ recite state that a petition has been filed with the ~~said~~ council
26 or other legislative body with ~~a sufficient number of the~~ signatures of 33 1/3% of the resident ~~freeholder~~
27 electors owning real property in ~~of the territory~~ area proposed to be annexed; a description of the
28 boundaries of the ~~territory or territories~~ area to be annexed; a copy of the resolution ordering a general or
29 special election ~~thereof, as the case may be~~; a copy of the notice of ~~such the~~ election; the time and result
30 of the canvass of the votes received in favor of annexation and the number ~~thereof~~ of votes cast against

1 annexation; and that the boundaries of ~~such~~ the city or town, ~~by such resolution, shall~~ will be extended so
2 ~~as to embrace and include such territory or territories as the same are~~ the area described in the petition for
3 annexation, ~~which said.~~ The resolution ~~shall~~ must be incorporated in the minutes of ~~said~~ the council or
4 legislative body.

5 (2) A resolution adopted pursuant to 7-2-4601(3) must include a statement that a petition has been
6 filed with the governing body containing the signatures of more than 50% of the resident ~~freeholder~~
7 electors owning real property or the owners of ~~all~~ 50% of the ~~territory~~ area to be annexed; a description
8 of the boundaries of the ~~territory~~ area to be annexed; and a statement that the boundaries of the
9 municipality are to be extended to include the ~~territory~~ area described in the petition for annexation. The
10 resolution ~~shall~~ must be incorporated in the minutes of the governing body. Upon incorporation in the
11 minutes, the resolution must be filed and becomes effective as provided in 7-2-4607."

12
13 **Section 12.** Section 7-2-4610, MCA, is amended to read:

14 **"7-2-4610. Provision of services.** In all cases of annexation under current Montana law, services
15 ~~will~~ must be provided according to a plan provided by the municipality as specified in 7-2-4732, except:

16 (1) as provided in 7-2-4736; and

17 (2) in first-class cities, ~~where~~ when otherwise mutually agreed upon by the municipality and the
18 ~~freeholders~~ real property owners of the area to be annexed."

19
20 **Section 13.** Section 7-2-4704, MCA, is amended to read:

21 **"7-2-4704. Definitions.** The following terms ~~where~~ when used in this part have the following
22 meanings except ~~where~~ when the context clearly indicates a different meaning:

23 (1) "Contiguous" means any area ~~which~~ that, at the time annexation procedures are initiated, either
24 abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street
25 right-of-way, a creek or river, the right-of-way of a railroad or other public service corporation, lands owned
26 by the city or some other political subdivision, or lands owned by the state.

27 (2) "Municipality" means any incorporated city or town ~~under Montana law~~.

28 (3) ~~"Resident freeholder" means a person who maintains his residence on real property in which~~
29 ~~he holds an estate of life or inheritance or of which he is the purchaser of such an estate under a contract~~
30 ~~for deed, some memorandum of which has been filed in the office of the county clerk and recorder."~~

1 **Section 14.** Section 7-2-4705, MCA, is amended to read:

2 **"7-2-4705. Annexation by municipalities providing services.** (1) The governing body of any
3 municipality may extend the corporate limits of ~~such~~ the municipality under the procedure set forth in this
4 part upon the initiation of the procedure by the governing body itself.

5 (2) Whenever the ~~resident freeholders~~ owners of real property situated outside the corporate
6 boundaries of any municipality, but contiguous ~~thereto~~ to the municipality, desire to have real estate
7 annexed to the municipality, they ~~may~~ shall file with the governing body of the municipality a petition
8 bearing the signatures of 51% of the ~~resident freeholders~~ real property owners in of the territory area
9 sought to be annexed, and requesting a resolution stating ~~the intent of that~~ the municipality intends to
10 consider annexation. Upon passage of the resolution, the governing body shall follow the procedure in
11 7-2-4707 through 7-2-4713 and 7-2-4731(2)."

12
13 **Section 15.** Section 7-2-4710, MCA, is amended to read:

14 **"7-2-4710. Protest.** (1) For a period of 45 days after the public hearing provided for in 7-2-4707
15 through 7-2-4709, the governing body of the municipality shall ~~receive expressions, in writing, of accept~~
16 written comments approving or disapproving approval or disapproval of the proposed annexation from
17 ~~freeholders of the territory~~ real property owners of the area proposed to be annexed.

18 (2) If a majority of the ~~said freeholders~~ real property owners in writing disapprove of the proposed
19 annexation in writing, ~~no~~ further proceedings under this part ~~shall be had~~ relating to the ~~territory area or~~
20 any part of the area proposed to be annexed ~~or any part thereof may not be considered or acted upon by~~
21 the governing body on its own initiative, without petition, for a period of 1 year from the date of ~~such~~
22 disapproval."

23
24 **Section 16.** Section 7-2-4741, MCA, is amended to read:

25 **"7-2-4741. Right to court review when area annexed.** (1) Within 30 days following the passage
26 of an annexation ordinance under authority of this part, either a majority of the ~~resident freeholders~~ real
27 property owners in of the territory area to be annexed or the owners of more than 75% in assessed
28 valuation of the real estate in the ~~territory area~~ territory area who believe that they will suffer material injury by reason
29 of the failure of the municipal governing body to comply with the ~~procedure~~ procedures set forth in this part
30 or to meet the requirements set forth in 7-2-4734 and 7-2-4735, as ~~they apply~~ applied to their property,

1 may file a petition in the district court of the district in which the municipality is located seeking review of
2 the action of the governing ~~board and serve a copy of the petition on the municipality in the manner of~~
3 ~~service of civil process~~ body.

4 (2) If two or more petitions for review are submitted to the court, the court may consolidate all
5 ~~such~~ the petitions for review at a single hearing."

6
7 **Section 17.** Section 7-2-4751, MCA, is amended to read:

8 **"7-2-4751. Right to court review when area not annexed.** (1) ~~After the resident freeholders have~~
9 ~~properly petitioned~~ If within 60 days of receiving a valid petition the governing body ~~of the municipality and~~
10 ~~the body has failed~~ fails to pass a resolution of intent to annex ~~within 60 days~~, the petitioners may file a
11 ~~complaint and a duplicate copy of the petition in the district court of the proper jurisdiction~~ district in which
12 the municipality is located ~~stating the reason why the proposed annexation should take place.~~

13 (2) The municipality ~~shall~~ must be designated ~~party as the~~ defendant in the cause and ~~shall be is~~
14 required to appear and answer as in other cases."

15 -END-

Proponents' Testimony:

Gordon Morris, Director, MT Association of Counties (MACO), supported SB 82 and suggested an amendment to bring in 7-4-2503, which is relative to county attorneys, would also be effective August 1. (EXHIBIT 1).

Mona Nutting, Carbon County Commissioner, supported SB 82. She stressed the importance of knowing what the mills will be before allowing salary adjustments.

Vern Peterson, Fergus County Commissioner, supported SB 82. Because Fergus County can no longer mill, an August 1 effective date would be very helpful.

Alan Horsfall, Ravalli County Commissioner, supported SB 82.

Vicki Hyatt, Stillwater County Commissioner, supported SB 82.

Opponents' Testimony: none

Questions From Committee Members and Responses: none

Closing by Sponsor:

SEN. HERTEL stated that SB 82 would alleviate a problem and be very helpful to the counties.

HEARING ON SB 52Opening Statement by Sponsor:

SEN. JOHN HARP, SD 42, Kalispell, presented SB 52. SB 52 would allow a property owner in a first class city the right to protest an annexation. SB 52 would no longer exclude certain taxpayers and property owners that are currently excluded under existing annexation laws. SEN. HARP also stated that if you are a second class city in Montana you would get the same privileges as a first class city. Reasons for bringing SB 52 to the legislature was a result of problems in annexation in the Kalispell area as well as Missoula, Billings, and Great Falls. SB 52 would allow for fairness and equality in annexation.

Proponents' Testimony:

Howard Gipe, Flathead County Commissioner, gave the support of the Flathead County Commissioners to SB 52. Unless SB 52 is passed, small businesses would be unfairly taxed without representation. He urges the committee to support SB 52

Gordon Morris, MACO, testified in support of SB 52. Mr. Morris stated that MACO supports SB 52 from the standpoint that it is a much needed clarification of occurrent archaic law in regard to

the use of terminology such as freeholder. Substitution of freeholder to real property owner would clarify any confusion and would then include all in a region to be annexed.

REP. CAROLYN SQUIRES, HD 68, Missoula, supported SB 52 as her district has had some problems in the annexation process.

REP. CARLEY TUSS, HD 46, Black Eagle, supported SB 52. REP. TUSS's area has had problems in annexation as they do not want to be incorporated with Great Falls. SB 52 would help the people of Black Eagle.

REP. LINDA MCCULLOCH, HD 70, Missoula, stood in support of SB 52 for her district.

Jack Fallon, of Evergreen, supported SB 52 and presented his written testimony. (EXHIBIT 1).

Robert LeDuc, a small business owner from Evergreen, supported SB 52 and presented his written testimony. (EXHIBIT 2).

John Smithlin, Evergreen resident, supported SB 52 and presented his written testimony. (EXHIBIT 3).

Jack Lingle, Fire Chief of Evergreen, supported SB 52 and presented his written testimony. (EXHIBIT 4).

James Lofftus, MT Fire Districts Assoc., supported SB 52. Under the current annexation laws, the tax base of the fire districts is eroding. Fire districts have invested in equipment and fire protection for their residents and then cities come in and take out the best part of the fire district which makes it very hard to maintain the services they provide. Mr. Lofftus also introduced the following people representing various fire districts: Sandy Close, Belgrade, Bill Reid, Missoula, Jim Balke, Belgrade, Joe Gasaoda, Missoula.

Jay Sage, of Missoula, presented his written testimony in favor of SB 52. (EXHIBIT 5).

Pam Holmquist, of Evergreen, presented her written testimony supporting SB 52. (EXHIBIT 6).

John Brower, of Missoula, supported SB 52. Mr. Brower is in favor of changing the language in annexation law from resident freeholder to real property owner as it is fair and it simplifies the annexation process as well. In the best interest of citizens they should have the right of protest to annexation.

Carl Prinzing, Missoula Association of Realtors, support SB 52.

Paul Laisy, Assistant Chief of Missoula Rural Fire District, supported SB 52. Mr. Laisy stated that the changes in SB 52 are putting the law back to the way it used to be. He felt that this

piece of legislation will put the government back in control of the people and to give people a choice. He noted that right now if you do not live on your property you do not have a choice in annexation. Currently, the state law allows everyone a choice to be added to a fire district and taxed whether they live in the district or not as long as they own property in the district. Mr. Laisy feels that the same should be true for annexation which would make the city more responsive to the people and more efficient and competitive. If a city has nothing to offer and services would go down why would a person want to support annexation?

Opponents' Testimony:

Bruce Williams, City Manager of Kalispell, opposed SB 52 and presented his written testimony. (EXHIBIT 7).

Larry Gallagher, Director of Planning & Economic Development for the City of Kalispell, opposed SB 52 and presented his written testimony. (EXHIBIT 8). Mr. Gallagher also presented a tax comparison sheet on Gate Way Mall (EXHIBIT 9) and a population growth graph of Flathead County. (EXHIBIT 10).

{Tape: 1; Side: B; Approx. Counter: ; Comments: .}

Jim Nugent, Missoula City Attorney, opposed SB 52. Mr. Nugent expressed the concern of fairness to businesses and residents in the city limits of urban areas where there are businesses and residents adjoining them in a rural area, which has an urban population, and not paying their fair share. As an example, Missoula has a population of 43,000 and are serving a population that exceeds 65,000 which requires more traffic controls and police investigators. In regards to municipalities, Mr. Nugent stated that Montana is among the most anti-municipality according to a study done on 15 states in 1979 and 1980. The study also concluded that no state protected rural fire districts as does Montana. Mr. Nugent asked how you can plan orderly development when you are able to have people obstruct so easily? To have a truly fair annexation process where all the effected parties participate you should have a city wide vote. Mr. Nugent stated that he did not believe that the language change to real property owner will solve the annexation problem as there is no real definition.

Alec Hanson, League of Cities & Towns, opposed SB 52. Mr. Hanson noted that Montana currently has some of the most restrictive annexation laws in the country and SB 52 will make annexation even more difficult. He pointed out that the city of Butte in it's consolidation solved the annexation process as everyone pays an equal amount. Mr. Hanson felt that with out real property owner defined SB 52 would create a great deal of confusion. Mr. Hanson believes that SB 52 was a local issue that started in Kalispell and has reached the legislature.

Ralph Stone, representing the City Council of Billings, opposed SB-52. Mr. Stone stated that the hearing on SB 52 was just a neighborhood squabble. He stated that the city of Billings will not join Missoula in supporting SB 52. He also pointed out two votes where annexation has been overturned showing that the present law is working.

Norm Colpan, Deputy Mayor of Billings, opposed SB 52. He felt that SB 52 was coming from an isolated issue and would impact the whole state. Mr. Colpan also stated that in Billings the city residents do pay about \$800,000 of the county Sheriff's patrol. He urged opposition to SB 52.

Questions From Committee Members and Responses:

SEN. DELWYN GAGE asked what 7-2-4205 and 7-2-4305 apply to as they appear identical? Mr. Fallon answered that they are different annexation statutes with certain criteria.

SEN. GAGE wanted to know the definition of a first class city. Mr. Hanson replied that it must have a population over 10,000.

SEN. GAGE asked in regards to page four line 14 that if one person owns over 50% of the area to be annexed if that person may petition the annexation alone? Mr. Nugent answered that the governing body has the right to approve or disapprove a petition.

SEN. GAGE wanted to know what happens if a petition is disapproved. Mr. Nugent answered that there would be no annexation. SEN. GAGE asked if there was anything in statute that gives guidelines for the disapproval of a petition? Mr. Fallon stated that there is no requirements by the city.

SEN. GAGE asked the cities of Kalispell, Billings, and Missoula to provide the committee with a comparison of their mills, non-mill revenue, and taxable evaluations over the last three years.

SEN. GAGE asked what section 8 was referring to? Mr. Akey answered that section 8 applies to annexation of fully surrounded land which is not allowed to protest an annexation.

CHAIRMAN TOM BECK asked if the people of Evergreen put up 30% on an SID for a waste treatment plant? Mr. Williams replied that they did put up on the SID and will receive use of 30% of the treatment plant.

SEN. BECK wanted to know what other services are provided to Evergreen from the city of Kalispell. Mr. Williams answered that there are none but occasionally there is back up for the Sheriff's Department. Mr. Williams also noted that the two do have a mutual back up agreements.

SEN. BECK asked Mr. Williams if there was any type of an agreement with the people of Evergreen to not annex them when it was proposed to them to participate in the waste treatment plant? Mr. Williams replied that there was no such agreement but did say that the intent of Kalispell was to reach an agreement with Evergreen that said, we will do these things in exchange for annexation at the time the city feels it is most appropriate.

SEN. J.D. LYNCH asked SEN. HARP what happens to corporate owners that own more than one piece of property, are they considered one entity or more and do they receive more than one vote? SEN. HARP answered that they receive one vote.

SEN. JEFF WELDON asked Mr. Gallagher to respond to the statement that there does not seem to be an adequate demonstration of the need for annexation to the people and therefore people protest.

SEN. WELDON asked if this was the case in Kalispell? Mr. Gallagher pointed out that the need in the Evergreen, Kalispell situation accrued whenever the city of Kalispell by agreement allowed 30% of its waste treatment plant to be used by Evergreen. Mr. Gallagher stated that now Evergreen is trying to break there agreement to not protest annexation by using the Legislature.

SEN. LYNCH asked for copies of the agreement between Kalispell and Evergreen. SEN. HARP will be providing the copies.

Closing by Sponsor:

SEN. HARP provided an amendment to SB 52 that gives the definition of real property owner. (EXHIBIT 11). SEN. HARP pointed out that SB 52 was not a special interest bill and SB 52 would benefit real people. He also showed that there were no business owners from the large cities present to oppose SB 52 but there were plenty of small business owners who were being effected by annexation. SEN. HARP feels that SB 52 would enable people to be treated fairly and urged the committees support on SB 52.

EXECUTIVE ACTION ON SB 82

Discussion: CHAIRMAN BECK asked Mr. Morris, of MACO, to confirm that the amendment to SB 82 was to change the salary adjustment date for county attorneys to August 1. Mr. Morris confirmed.

Motion/Vote: SEN. LYNCH MOVED to ACCEPT the amendment to SB 82. The MOTION CARRIED unanimously.

Motion/Vote: SEN. LYNCH MOVED SB 82 DO PASS AS AMENDED. The MOTION CARRIED unanimously.

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE _____

1-19-95

[illegible]

SEN:1995
wp.rollcall.man
CS-09

My name is Robert LeDuc. I am one of 90 small business

men at Evergreen next to Kalispell, Montana. I've been there in business 30 to 40 years paying taxes, etc.

Evergreen is a place like I say of small business and working people and I am not here representing WalMart or any big corporation as they can take care of themselves.

But, I am here to give business and landlords the same protest rights that residents have and also give businesses around larger cities the same rights as around smaller communities. We want fairness like first class citizens not second class citizens because we have a business next to a first class city. So, please take a hard look at Senate Bill 52 and I hope you vote for it. Thanks

I want to introduce John Smithlin

I am John L. Smithlin and have lived in Evergreen for 48

years and in my current residence for about 18 years. I am one of 3 resident freeholders, who protested annexation. I am concerned I will be gerrymandered out and then be surrounded and never have a say in my destiny.

All I ask is for a fair shake and that's what Bill 52 is all about. I think it's only fair that everyone whose pocketbook is affected ought to have an equal right to participate in this process.

I would like to introduce our long time Fire Chief Jack Lingle. I urge you to support SB 52.

Thank you,

My name is Jack Lingle Chief, Evergreen Volunteer Fire Department. Being an Evergreen Volunteer Fireman for 35 years, I have watched and been active in the community's growth.

We, The community, have installed a water system and brought the fire insurance rate down to a class 5! Exactly the same as the City of Kalispell. Our equipment is up to date.

If annexation would happen it would cut our budget at least 10%.

We would still have to go thru the proposed annexed portion to protect homes and businesses that the city does not want. They only want to take the businesses along the highway strip where the big Revenue exists.

Also Evergreen's response time to these businesses is 1/2 of what the city could supply. There are other communities in Montana experiencing this same Dilemma. They are also represented here today. They are from Belgrade, Bozeman,

Black Eagle, 4 groups from Missoula rural and Lockwood.

I feel to annex to the bigger cities is unfair to the hard working communities as well as to the Fire Department and the businesses.

I would like to introduce Jim Lofftus, President of the Montana Fire District Association.

Jay Sage
2135 W. Sussex Av.
Missoula, Montana 59801
Phone 1-406-721-9494

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 5

DATE 1-19-95

BILL NO. SB 52

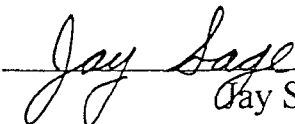
January 19, 1995

Senate Local Government Committee

I support Senate Bill Number 52. The changes made in the annexation laws by substituting Real Property Owners for Freeholders will restore the constitutional rights of some of the people to petition. These are rights that are fundamental to our system of government and should not have been restricted or denied in the first place. I see no reason why a property owner who does not happen to live on the property would be denied their U. S. Constitutional First Amendment Right . . ."to petition the Government for a redress of grievances."

In my opinion the only problem with Senate Bill No. 52 is that it does not go far enough, however I must support this bill because it is a step in the right direction.

Thank You For Allowing Me To Speak.


Jay Sage

This exhibit also contained a petition
with six (6) pages of signatures.

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 4

DATE 1-19-95

BILL NO. SB 52

Pam Holmquist, property and small business owner in Evergreen.

I am a proponent of Senate Bill 52 because I don't believe in taxation with representation. My real property taxes would increase by 35.4% if annexed.

Senate Bill 52 is all about fairness. It's only fair that I and every property owner and taxpayer in the State of Montana have a voice. We should be able to make our own decisions on what happens to our property whether we reside on it or not. Thank you.

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 7DATE 1-19-95BILL NO. SB 52

To: Senate Local Government Committee
From: Bruce Williams City Manager Kalispell
Re: Senate Bill 52

My name is Bruce Williams Kalispell City Manager and I am here to express the City of Kalispells opposition to senate bill 52. This special interest amendment to Montana's annexation laws is being sponsored primarily because of Kalispell's attempt to annex approximately 280 acres of commercial property which is adjacent to the city's eastern city limits. The history surrounding this annexation issue is recent and involves the area's need to be served by an EPA approved sewage treatment facility. Because it was significantly less expensive for the area property owners to contract with the city of Kalispell to treat its sewage rather than build their own facility, the city agreed to extend and reserve 30% of the capacity of our new treatment facility for Evergreens exclusive use in exchange for their commitment to pay the debt associated with the reserve capacity and agreement that they would annex when the city decided to initiate the process. The agreement to annex consisted of consent waivers from over 55% of the property owners in the area to be annexed. The area is now fully sewered with its collection system being built and funded by a rural special improvement bond. The city is now receiving and treating the areas sewage. About one year ago the city attempted to annex the area utilizing the very statutes you are now considering changing. The annexation attempt failed because of sufficient resident freeholder protest. Three of the 109 property owners were resident freeholders and all three protested which was more than enough protest to halt the annexation. This certainly should point

out that the present annexation laws provide sufficient protection to halt even annexations that have been previously agreed to by consent. ~~The city will again attempt the annexation this March with or without change to the present annexation laws.~~ It is our opinion that a local agreement between ^w_A consenting parties should not be broken by state legislative policy. However, if you are inclined to amend the annexation laws as represented in SB-52 we would only request that its application only apply to the City of Kalispell because all other Montana cities should not be punished for an agreement they were not a party to. Secondly, if the amendments are favored by the committee you should further amend them by indicating that those property owners signing consent waivers have no protest standing. Third, we would offer that giving all property owners the opportunity to protest annexation would give large retailers many of which have no Montana corporate presence such as Wal-Mart, K-Mart, Shop-Ko and so on operating in the fringes of our communities a distinct business advantage over their smaller counterparts located within our cities. And finally We would offer that if your determined to change the laws by which Montana cities grow and prosper you should also consider in exchange eliminating the requirement that city property owners pay county property taxes for which they receive little or no benefit.

Thank You!

City of Kalispell Opposes SB 52

Senator Beck, members of the Local Government Committee, Senator Harp, I am Larry Gallagher, Director of Planning, Economic and Community Development, City of Kalispell. I am here today to speak against passage of Senate Bill 52.

In 1960, only 35 years ago, Flathead County had a population of 32,965.

No one assumed that during that period ---1960-1995... the population of Flathead County would almost double ...a **99.79 percent increase** to 65,862 people in 1995.

Also, in 1960, only 35 years ago, the City of Kalispell had a population of 10,150.

No one assumed then that during the period of 1960-1995...the City of Kalispell population would practically stagnate and increase by only 21.71 percent or 2,204 persons. A paltry .56 annual average increase to only 12,355 people today.

During the same period--35 years--the City of Kalispell's Planning jurisdiction area...that portion of Flathead County just outside the city limits generally, within a two mile radius of the city, thus, ...outside of the city's tax base, experienced a 101 percent increase in population from 13,151 to 26,471.

Table 3-1
1990-2015 Population Projections

	1960	1995 ¹	2015*
Flathead County	32,965	65,862	86,432
Planning Area	13,151	26,471	35,304
City Limits	10,151	12,355	14,003

There can be no question, almost all of the 26,471 persons living within the city's planning jurisdictional area use and enjoy the benefits of the municipal services provided by the City of Kalispell. They play in the city parks, drive the city streets, drink the city water, call

¹ Kalispell Bypass Feasibility Study, Flathead Regional Development Office/Carter & Burgess, Inc., October 1993 - page 35 & 36 Table 3-1 1990-2015 Population Projections

on the Fire and Police and ambulance when needed, and ---flush their waste into the city's waste water treatment plant or continue contributing to the ground water degradation of the Flathead Valley which eventually has an impact on Flathead Lake.

It would also be safe to assume that a majority of Flathead County residents who are employed, work in the Greater Kalispell area. In 1990, approximately 31,000 persons were employed in the Greater Kalispell area. Employment is expected to go to 39,000 in the year 2000 and 50,000 by 2015. "The majority of county wide job growth is predicted to occur in the greater ...Kalispell area."² Fully 2/3 of county-wide jobs have an impact on the City of Kalispell!

The City's 1993 Transportation Plan has recommended and suggested the city needs to invest over \$31 million in alternative traffic upgrades and improvements to transport or move the 86,432 souls expected to reside in Flathead County in the ten short years ahead. I might add that we are also the crossroads for the 2 million plus annual visitors to Glacier National Park, a blessing to our economy but still an impact on local (City) services.

Now, why does the city want to annex Evergreen?

1. Kalispell needs the money...
2. Kalispell needs the tax base...
3. Kalispell needs to grow to accommodate new business and residential demand. To manage and encourage growth by providing adequate municipal services without an adverse impact on existing taxpayers. Particularly, ...residential property owners.

1. Kalispell needs the money:

Kalispell currently provides adequate municipal services for its 12,355 residents and business community. Not only is Kalispell the County seat, it provides the cultural, governmental, financial and medical service center for the majority of the 31,000 + people who work and derive their income in the Greater Kalispell area and the 26,471 persons who reside in the Greater Kalispell area. ...Kalispell has historically provided the business and economic environment, including incentives where necessary, to encourage the expansion of business opportunity. It costs money to provide municipal services, to move traffic, to build and repair streets and other infrastructure which benefit a population far greater than the city population. Right now, only Kalispell taxpayers contribute, ...too many residential taxpayers are paying an ever increasing share of the tax burden.

² Ibid, page 36

I'll mention again, ...the 2.1 million visitors to Glacier Park, each year... many, after a long delay at the intersection of Idaho and Main Intersection where U.S. Highway's 2 and 93 intersect in the heart of our business district. An intersection that should have been improved over a decade ago. The City and State of Montana did not have the money to rebuild this intersection. Tourists, do not contribute directly to the city tax base.

2. Kalispell Needs the Tax Base:

During the 1994 tax year, commercial property in Evergreen, i.e., Shopko, Superl Food, Kmart and Ernst, representing the largest commercial property held in School District #50, enjoyed lower assessed valuations because appraisals do not yet reflect the dramatic increase in land values over the past 12 months; and thus, paid ad valorem taxes based on a mill levy 17.38% lower than City of Kalispell residents and business property owners. Evergreen commercial property in Rural School District #5, such as the new 125,000 sf Walmart property is assessed at a mill rate 20.22 % lower than a similar commercial property located in the city.

I must add here ...that all of the new growth of giant national box store retailers now located in Evergreen, is possible only because of the City of Kalispell's agreement to treat Evergreen sewage. An agreement executed and offered by the Evergreen commercial property owners and their paid negotiators, in exchange for their signatures on a **CONSENT TO ANNEX AGREEMENT AND NOTICE OF WITHDRAWAL FROM RURAL FIRE DISTRICT**. The Consent Agreements are recorded documents and represent the Evergreen property owner's written agreement to waive their protest to annexation. The Agreements were signed by a majority of all commercial property owners on the Evergreen Strip.

Yes, SB 52 is a money bill... and it is a tax base bill. Its passage will allow giant retailers and satellite businesses to absorb the retail sales dollars and other disposable income of Kalispell and Flathead County residents while devastating Kalispell's commercial/retail property tax base... enjoying Kalispell's municipal services... specifically waste water treatment and police protection ...while being assessed at rates 17.38 - 20.22 percent lower than a City tax payer.

I want to again emphasize my concern that the 400,000 sf of new retail box stores emerging on the Evergreen Commercial Strip and north on LaSalle, plus a new bank, a branch bank and a savings bank will have an adverse impact on the commercial/retail property tax base with-in the existing city limits.

An Example:

Gateway West Mall, located on the city's western edge, has been 50% vacant for the past 13 months. In 1992 this 1960's vintage enclosed mall shopping center was valued at \$7.214 million for tax purposes. Today after its 2nd annual tax appeal, it is valued at \$4.615 million, a 36%

drop in value since 1992. A copy of the valuation comparison is available and will be left with the committee secretary. The new (in 1986) Mountain Mall in Whitefish, has been offered unsuccessfully for sale for the last three years at less than 1/2 of what it would cost to replace it. Successful tax appeals will become a way of life next year for owners of older commercial properties in Kalispell, Whitefish and Columbia Falls. Property that will become more functionally and economically obsolete each year, with the emerging trend to big box discount retail. The income approach to valuation will be the method used to appeal taxes in the future.

The Urban Land Institute, in a ULI Research Working Paper Series dated May 1993, entitled "**THE EFFECT OF THE COLLAPSE OF COMMERCIAL PROPERTY VALUES ON LOCAL GOVERNMENT REVENUES AND TAX BURDENS**" documented the national trend and impacts on local taxing jurisdictions and residential property owners when commercial property is over developed. ULI concluded its study with this statement:

"We emphasize again that these impacts will vary from area to area. Still the situation involves a massive shift in the burden of paying for local government services from the commercial sector to the residential sector. The big winners, of course, are businesses who benefit by virtue of the oversupply of commercial real estate and can significantly reduce their space costs by taking advantage of cheaper rents. Thus, businesses receive a windfall gain and households receive a windfall loss."³

Let me emphasize, as the valuation of Gateway West Mall goes down and is not replaced in the City of Kalispell's taxing jurisdiction, other property owners, principally residential property owners will have to pay an ever increasing share of the local tax burden. That is what is happening in Montana and in Kalispell. Without the additional revenue to be derived from the commercial strip in Evergreen, and with an eroding commercial tax base in Kalispell, the city will be forced to choose between reduced services or an increase in the mill levy it has struggled so hard to reduce. Either choice, and/or a little of both, will impact and burden Kalispell's 12,355 resident owners.

Since the early 1970's I have been before the Montana Legislature lobbying and testifying on behalf of municipalities and local development corporations seeking the tools necessary to rebuild ailing cities, stimulate the economy of the state, and in general and foremost to encourage the formation of public/private partnerships to assure and manage the sound growth of municipalities and local economics. Annexation was one of those tools. The sound growth of our municipalities is important to all of us. SB52 is a monkey wrench not a tool we want.

³ ULI Research Working Paper: Local Fiscal Effects of Commercial Property Deflation, May 1993, Research and Information Services, ULI the Urban Land Institute, 625 Indiana Avenue, N.W., Washington, D.C. 20004.

For past generations, Montana's future and its economics were decided in corporate board rooms in New York or Chicago or Butte. Today's Montana's retail economy and market share is being decided in board rooms in Bentonville, AK, Green Bay, WS, Redmond, WA, the headquarters for Walmart, Shopko, and Costco. We can't and should not interfere with the process; but we ought to be able to at least assess them for flushing their toilets into the same treatment plant as city residents while they profit from being located and adjacent to our city.

I want to compliment the Evergreen business community for finally agreeing to invest in their own sanitary sewer system. It was a good investment in their future when building permits were denied because they did not have one. They are already realizing a handsome return on their investment in the future of Evergreen, ...and values along the commercial strip have increased by well over 100% and in some instances tripled ...only after the City agreed to allow treatment of the sewage they generate there.

I agree with Senator Harp, ...SB 52 is a fairness issue. Yes we agree, property owners should be treated equally. We just disagree with his legislation to enable Evergreen business owners to enjoy all of the benefits available to Kalispell's business community and residents without paying a reasonable share of the cost.

Thank you for the opportunity to express my views. I will be available for any questions you may have.

18-Jan-95

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 9
DATE 1-19-95
BILL NO. SB 52

GATEWAY WEST MALL: Kalispell, Montana
Assessed Valuation comparison:

	1992	1993	1993*	1994
IMPROVEMENTS	\$4,492,256	\$5,582,800	\$3,308,700	\$2,926,400
LAND	\$2,722,062	\$2,722,062	\$2,722,062	\$1,688,386
TOTAL	\$7,214,318	\$8,304,862	\$6,030,762	\$4,614,786
PERCENT CHANGE VALUE 1992-1994		15.12	-16.41	-36.0

SENATE LOCAL GOVERNMENT

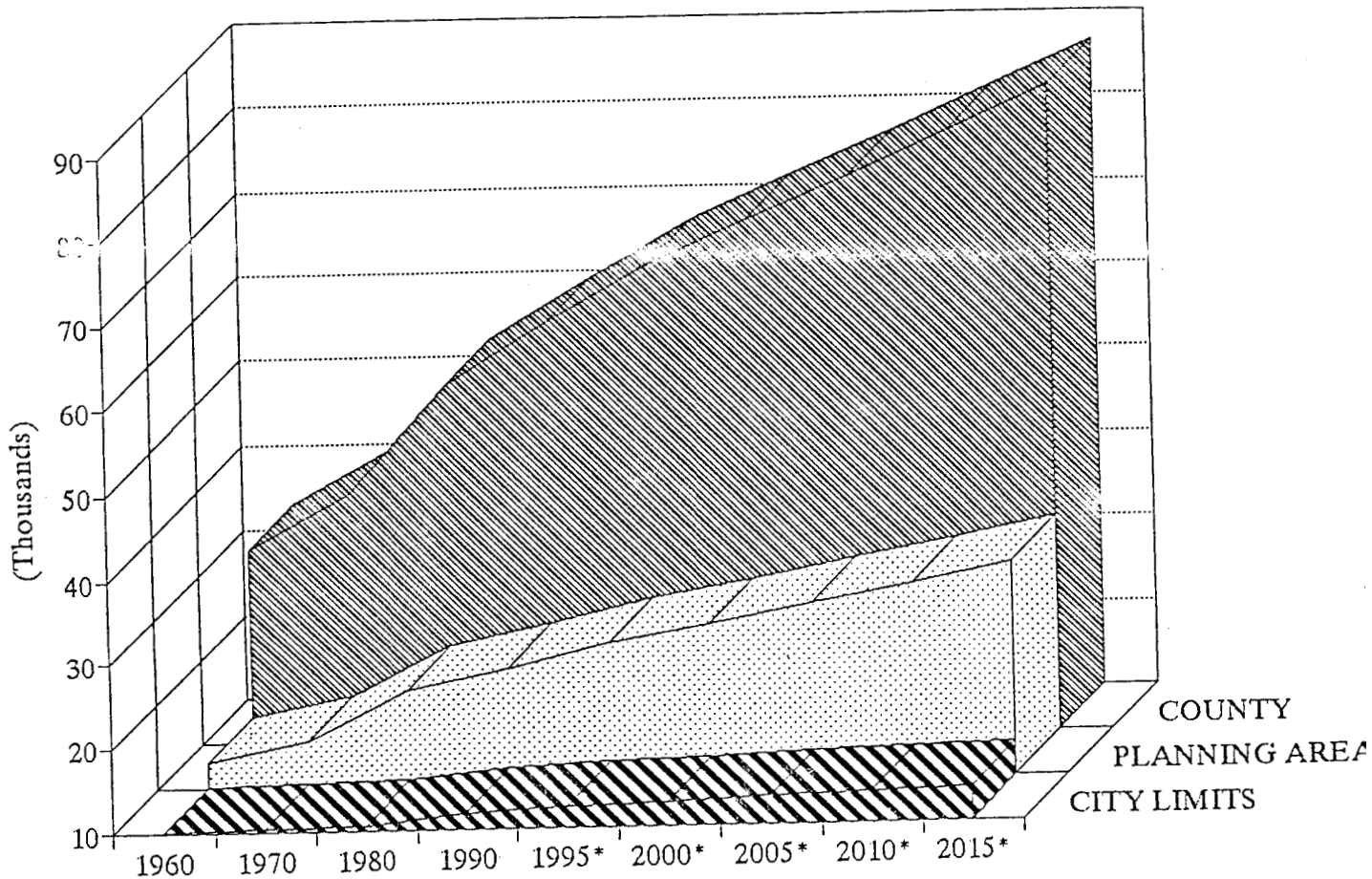
EXHIBIT NO. 10

DATE 1-19-95

BILL NO. SB 52

FLATHEAD COUNTY/KALISPELL

1960 - 2015 POPULATION



18-Jan-95

POPULATION: 1960 - 2015 FLATHEAD COUNTY - CITY OF KALISPELL & CITY PLANNING JURISDICTION

LOCATION	1960	1970	1980	1990	1995*	2000*	2005*	2010*	2015*
FLATHEAD COUNTY	32,965	39,460	51,966	59,218	65,862	71,004	76,147	81,289	86,432
PLANNING JURISDICTION	13,151	15,426	21,147	23,697	26,471	28,680	30,888	33,096	35,304
CITY OF KALISPELL	10,151	10,526	10,648	11,917	12,355	12,767	13,179	13,591	14,003
*Kalispell Area Transportation Plan: FRDO & CRSS Civil Engineers, Inc., Oct. 1993									
	<u>%CHG 1960-70</u>		<u>%CHG 1970-80</u>		<u>%CHG 1980-90</u>		<u>%CHG 1990-95</u>		
FLATHEAD COUNTY	19.70%		31.69%		13.96%		11.22% 8.08%		
PLANNING JURISDICTION	17.30%		37.09%		12.06%		11.71%		
CITY OF KALISPELL	3.69%		1.16%		11.92%		3.68%		

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 11

DATE 1-19-95

BILL NO. JB 52

Amendments to Senate Bill No. 52
First Reading Copy

Requested by Senator Harp
For the Committee on Local Government

Prepared by Bart Campbell
January 13, 1995

1. Title, line 4.

Following: "AN ACT"

Insert: "CLARIFYING ANNEXATION LAW BY"

Following: "FREEHOLDERS"

Insert: "AND,"

2. Title, line 5.

Following: "ANNEXATION"

Insert: "WITH THE PROVISION OF SERVICES"

Following: "LAWS"

Insert: ", BY SUBSTITUTING REAL PROPERTY OWNERS FOR RESIDENT
FREEHOLDERS"

3. Page 5, line 30.

Following: "~~recorder.~~"

Insert: "(3) "Real property owner" means a person who holds an
estate of life or inheritance in real property or who is the
purchaser of an estate of life or inheritance in real
property under a contract for deed, some memorandum of which
has been filed in the office of the county clerk."

DATE - 1-19-95

SENATE COMMITTEE ON LOCAL GOVERNMENT

BILLS BEING HEARD TODAY: SB 52 SB 82

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
John h. Smithlin	Evergreen	SB 52	yes	
Charles Keller	Evergreen	SB 52	yes	
ARDEN OLSEN	Evergreen	SB 52	Yes	
Howard W Gipe	Flathemo County	SB 52	✓	
Jack Lingle	Evergreen	SB 52	✓	
Loeri Lingle	Evergreen	SB 52	✓	
Jack John T. Fallon	Evergreen	SB 52	✓	
Allen C. Hensell Jr.	MACO	SB 52 SB 82	✓	
Robert LeDuc	self	SB 52	✓	
Pam Holmgvist	self	SB 52	✓	
Lynda Holmgvist	self	SB 52	✓	
John Brauer	East-West Protest	SB 52	✓	
Ter Gasveda	Self from Missouri	SB 52	✓	
LAUREN GRANMO	Self	SB 52		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE - _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Lawrence Gallagher	City of Kalispell	SB52	☒	☒
Jay Sage	Missoula MT	SB52	X	
Gordon Morris	MACO	SB 52 52	X	
Mona M. Nutting	Carbon County ^{MACO}	82	X	
Dick & Yett	St. Helena Co	82	✓	
Vern Petersen	Fergus Co.	82	✓	
James Balke	Belgrade Rural FD	SB52	Yes	
Sandy Close	Belgrade Rural Fire Dist.	SB52	X	
Paul LAISY	MSA Rural Fire Dist.	SB52	X	
JAMES A. LAFFTUS	MT FIRE DIST ASSN	SB 52	✓	
RALPH STONE	CITY OF BILLINGS	SB52		✓
Owen Neiter	" & "	SB52		✓
Norm Kohn	CITY OF BILLINGS	SB52		X
Candyn Guerin	H.D #68	SB52	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE- 1-19-95

SENATE COMMITTEE ON 1-19-95 Senate Local Government

BILLS BEING HEARD TODAY: SB 52 / SB 82

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Carley Juss	HD #46	SB 52	✓	
Linda McCulloch	HD 70	SB 52	✓	
Alec Hansen	MLCT	SB 52		✓
Bruce Williams	city Kalispell	SB 52		✓
Jim Nugent	City of Missoula	SB 52		✓
Car) E Prinzing	MSA City Assoc of Realtors	SB 52	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETAR'

Henry Lohr, a salvage business owner in Helena, suggested an amendment on page 6 line 16 to change "Accumulations of six or fewer junk" to "Accumulations of four or fewer junk". He felt this amendment would make SB 142 more uniform and urged the committees support.

Opponents' Testimony: none

Questions From Committee Members and Responses: none

Closing by Sponsor:

SEN. BECK pointed out that the pictures displayed by Mr. Hoppe show the current problem with junk vehicle laws. These junk vehicle lots should have to be confined behind a fence out of aesthetic view. SEN. BECK asked that used car dealership lots along with junk vehicle lots be looked at before action be taken on SB 142.

EXECUTIVE ACTION ON SB 52

Discussion:

SEN. DOROTHY ECK asked for a brief review of the interlocal agreement between Kalispell and the Evergreen water & sewer district. (Exhibit 6). Alec Hanson, LC&T, noted that the property owners of Evergreen waived their right to protest annexation in order to hook onto the Kalispell sewer system.

SEN. LYNCH in regards to the agreement wanted to know who agreed never to protest annexation. He expressed mixed emotions that the people of Evergreen have a legitimate complaint that the annexation only involves prime property (the businesses), and at the same time the people of Kalispell are paying for services that are provided to not only the city but the whole area.

CHAIRMAN BECK asked Larry Akey to give some information on the agreement. Mr. Akey pointed out that there is a great deal of dispute on what was committed to in the agreement. While the City Council put it on the record for future annexation, they said they really did not intend to annex the Evergreen area for a period of ten years or more.

SEN. HARP clarified SEN. LYNCH'S concerns that the people who signed the waivers of protest were told that if they signed the waiver the city would not be in to annex Evergreen for a period of ten years but annexation started three years after the agreement.

SEN. ECK asked if there was any written proof about the misrepresentation to the people of Evergreen? SEN. HARP replied that there is none.

SEN. WELDON stated that just because the testimony was mostly on a Kalispell issue the cambodia should not believe that it does not effect other areas.

CHAIRMAN BECK agreed with SEN. WELDON that this issue of annexation needs to address real property owners and not just freeholders.

Susan Fox went over the amendments presented to SB 52 which are present in the standing committee report.

SEN. ECK noted that freeholder is stated through out section seven and would the definition of real property owner effect other parts of SB 52? Susan Fox replied that the definition is only to refer to 7-2-47.

SEN. LYNCH wanted clarification that if Anaconda wanted to annex Opportunity at the present law the people who live in Opportunity can protest but the business owners may not and according to SB 52 business owners would be able to protest. SEN. BECK confirmed that SEN. LYNCH was correct.

Motion/Vote: SEN. WELDON MOVED to ACCEPT the amendments to SB 52. The MOTION CARRIED unanimously.

Discussion:

SEN. LYNCH wanted to clarify once again that a corporation does not get anymore leverage because they own millions of dollars of property than the little guy. CHAIRMAN BECK confirmed.

SEN. ECK asked if an area where one corporation owns it all do they have the only say in annexation? Susan Fox pointed out that in section 16 it deals with majority of property owners or owners of more than 75% in assessed valuation of the real estate of the area. This provides a choice.

SEN. GAGE stated that section 16 is in regard to court review. SEN. WELDON pointed out that the real "meat" of SB 52 is on page 2 section 4 line 14, "the resolution of annexation may not be adopted by the city council if disapproved in writing by a majority of the real property owners of the area".

Motion/Vote: SEN. WELDON MOVED SB 52 DO PASS AS AMENDED. The MOTION CARRIED unanimously.

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE _____

1-24-95

[illegible]

SEN:1995
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 25, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 52 (first reading copy -- white), respectfully report that SB 52 be amended as follows and as so amended do pass.

Signed: 

Senator Tom Beck, Chair

That such amendments read:

1. Title, line 4.

Following: "AN ACT"

Insert: "CLARIFYING ANNEXATION LAW BY"

Following: "FREEHOLDERS"

Insert: "AND,"

2. Title, line 5.

Following: "ANNEXATION"

Insert: "WITH THE PROVISION OF SERVICES"

Following: "LAWS"

Insert: ", BY SUBSTITUTING REAL PROPERTY OWNERS FOR RESIDENT
FREEHOLDERS"

3. Title, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

4. Page 5, line 30.

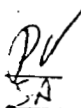
Following: "~~recorder~~."

Insert: "(3) "Real property owner" means a person who holds an estate of life or inheritance in real property or who is the purchaser of an estate of life or inheritance in real property under a contract for deed, some memorandum of which has been filed in the office of the county clerk."

5. Page 7, line 15.

Insert: " NEW SECTION. Section 18. Effective date. [This act] is effective on passage and approval."

-END-

 Amd. Coord.
SA Sec. of Senate

211247SC.SPV

SENATE LOCAL GOVT. COMM.

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DATE 1-24-95

BILL NO. SB 52

INTERLOCAL AGREEMENT BETWEEN

THE CITY OF KALISPELL

AND

FLATHEAD COUNTY WATER & SEWER DISTRICT NO. 1 - EVERGREEN

Dated: July 25, 1990

THIS AGREEMENT made and entered into this _____ day of _____, 1990, by and between the City of Kalispell, a municipal corporation hereinafter City, and the Flathead County Water and Sewer District #1 Evergreen, a county water and sewer district organized and existing under the laws of the State of Montana, hereinafter District.

W I T N E S S E T H

WHEREAS, the City is a municipal corporation organized and existing under the laws of the State of Montana and is authorized to establish, build, construct or reconstruct a sewage utility with a plant for the treatment or disposal of municipal sewage, and to regulate, establish and change the rates, charges and classification imposed upon persons served by the utility service; and,

WHEREAS, the District is a county water and sewer district organized and existing under the laws of the State of Montana with the authority to construct, purchase, acquire, operate and maintain a sanitary sewer system to benefit the inhabitants of the District; and,

WHEREAS, the City has constructed and then improved and modified the Kalispell Waste Water Treatment Plant, hereinafter Treatment Plant. After its pending modification the Treatment Plant will have an estimated average daily treatment capacity of three million one hundred thousand (3.1 million) gallons.

WHEREAS, the District is without municipal sewage collection or treatment facilities, and continued use of the existing septic tanks within the District may add additional contamination to the groundwater serving the District's water system and contribute to contamination of the Flathead River and Flathead Lake; and,

WHEREAS, the District being within the unincorporated jurisdiction of Flathead County, has populations, densities, facilities, and areas more consistent with incorporated municipalities which in general provide for higher levels of services to its citizenry and inclusive to that higher level of service do not adversely affect contiguous populations or areas; and,

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WHEREAS, the District has proposed a project involving a County Rural Special Improvement District, hereinafter RSID, and U.S. Environmental Protection Agency, hereinafter EPA, funds to construct a waste water collection system in the District feeding into a Force Main discharging directly into the Treatment Plant; and,

WHEREAS, the collection system of the District shall contribute sewage flows from within the RSID. The total estimated average daily flow is 0.682 million gallons and provides a basis to estimate treatment cost and to plan future available treatment capacity of the Treatment Plant.

WHEREAS, it is intended herein that the City and the District shall have completely separate sewage collection systems prior to the point of inflow into the Treatment Plant, and accordingly each party shall operate, maintain, construct, repair, administer, finance, replace, regulate, and comply with governmental standards at their own expense for their respective separate collection systems.

WHEREAS, it appears at this time that the estimated proposed contribution of District sewage to the Treatment Plant will not adversely affect the capacity of said plant to treat sewage contributed by current users of the City's collection system nor those that the City reasonably expects to acquire within the life of this agreement; and,

WHEREAS, the City is operating a treatment plant below its rated capacity and is of the represented opinion that capacity could be increased without substantially increasing treatment cost and therefore would seek potential qualified customers needing treatment services; and,

WHEREAS, the District within its financial obligations and responsibilities will encounter financial requirements with some inherent difficulties in order to fund their collection system and establish a secured method of operation, maintenance, and other cost payments, and accordingly the City within a cooperative spirit shall seek to establish compatible yet responsible treatment rates and administrative charges for and with the district as related to the

WHEREAS, the City and District are desirous of entering into interlocal agreement whereby the District agrees to construct a collection and delivery system serving the District, and the City for consideration, agrees to treat sewage so delivered; and,

WHEREAS, the City and the District are authorized, pursuant to Title 7, Chapter 11 Part 1, Montana Code Annotated, to enter into interlocal agreements enabling them to undertake services and activities for their mutual benefit; and,

WHEREAS, it is necessary that an interlocal agreement be authorized and approved by the governing bodies and that the agreement set forth fully the purposes, powers, rights, obligations and responsibilities of the respective public agencies.

NOW THEREFORE, in consideration of the mutual covenants to be performed by the parties, it is agreed as follows inclusive of the referenced Appendices and attachments:

SERVICE AREA

It is understood between the parties hereto that this Agreement obligates the City to accept normal municipal sewage from the District for that area comprising the RSID, hereinafter Service Area (Reference Appendix A hereto). The volume shall not exceed 0.682 million gallons average daily flow. Average daily flow for purposes of this Agreement shall mean that flow reserved to the District based upon the total quantity of liquid tributary to Treatment Plant, divided by the number of days of flow measurement. For purposes of this Agreement the number of days of flow measurement shall be 75 days. The City has no obligation to accept sewage from any properties lying outside the exterior boundary of the Service Area, and the District is not hereby authorized to connect users outside the exterior boundaries of the Service Area without written consent.

CONSENT REQUIREMENTS

In the event property owner(s) or users outside the exterior boundaries of the Service Area desire to connect mains or services to the collection system operated by the District, said property owner(s) must, prior to connection, obtain a written consent executed by the chief executive officer of the City which may

include a written execution of a waiver to protest annexation and consent to withdraw from the rural fire district and any other such documents the City may require. Absent written evidence of said consent of the City, the District shall have no authority to make connection to either mains or services lying outside the Service Area boundaries. Property owners or users outside the Service Area may be required to pay a hook-up fee to the City as established by the City.

In the event the City does consent to the connection of mains or services to the District's collection system, the flow contributed by said connections shall not be considered as part of the District's Reserved Capacity.

QUANTITY OF SEWAGE TO BE TREATED

The estimated daily effluent sewage from the District is specified at an amount not to exceed .682 million gallons average daily flow which is the District's Reserved Capacity. The District shall construct within their collection system and at the beginning point of the Force Main (see Force Main Connection) an acceptable engineered flow meter to accurately measure the volume of sewage daily contributed by the District to the plant hereafter known as Use. The Use shall not exceed at any time the Reserved Capacity.

The flow meter shall be equipped to continuously record flow rates and volumes on a daily basis. The meter shall also be tied into the City telemetry-monitoring system, and tested, and calibrated prior to discharge of District influent to the plant. The metering system shall be verified for compliance at least yearly at the expense of the District. Reasonable estimated adjustments shall be made for incorrect meter readings. The City has the right at anytime to inspect the District's collection system either separately or jointly with the District.

The Reserved Capacity is for the sole benefit of users within the Service Area. Reserve Capacity in total or in any part may not be sold or transferred to any other party without the written approval of the City Council of the City. At the completion of the original duration of this agreement (See Duration and Term), any Reserved Capacity not being utilized as compared to the last 365

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days average daily flow from the District, shall revert back to the City at no cost or charge to the City.

QUALITY OF SEWAGE TO BE TREATED

The influent sewage from the District shall be sampled and tested as determined necessary by a licensed treatment plant operator employed by the City. The samples shall be drawn by Treatment Plant operations personnel at the point of entry to the Treatment Plant. The District shall construct per the District's Engineer requirements an appropriate sampling system at the point of entry to the Treatment Plant, prior to City and District sewages mixing. Both District and the City treatment plant personnel shall have access at all times to the point of sampling.

The City shall monitor City lift station effluent in accordance with City ordinance or EPA regulations.

Tests to be performed, frequency of testing, and the limits for test compliance, and methods and points of sampling on influent sewage shall be determined by the City's Superintendent of the Treatment Plant. Tests shall include BOD (Biochemical Oxygen Demand), TSS (Total Suspended Solids), and other tests required by EPA or City Ordinances.

If testing results are not within the specified limits or standards then a more detailed sampling and testing program shall be undertaken by the City. If the test results remain out of the compliance specified, the District shall be notified and thereafter shall immediately begin an investigation for sources of contamination of the sewage. If the contamination is from within the District and the District does not timely stop the contamination to the reasonable satisfaction of the City, the City is authorized to take whatever action is necessary to eliminate the contamination and charge the District for cost of eliminating the contamination.

If additional treatment is required to accommodate the unacceptable variation from normal sewage influent, the District shall be assessed the cost of the added required treatment which shall hereinafter be referred to as a Surcharge Rate established in Appendix C. The City shall charge the District beyond the Surcharge Rate as necessary for any regulatory agency fines, engineering, or

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treatment and plant modifications if they are, or become, required because of this non-compliance.

FORCE MAIN CONNECTIONS

It is understood and agreed between the parties hereto that the District shall cause to be designed and constructed, as part of the collection system, a pressured conduit hereafter referred to as the Force Main commencing at the District's pump station and thence running Westerly on Conrad Drive, thence Southerly along Willow Glen, thence Westerly terminating at the Treatment Plant. The Force Main shall be constructed to EPA standards and if not applicable then to the Recommended Standards for Sewage Works - Great Lakes Upper Mississippi River Board of State Sanitary Engineers as a minimum requirement. The City shall be provided with one set of reproducible "as built drawings" upon completion of the Force Main construction. The City shall be consulted during design and construction process regarding potential future hook-up locations, pump stations, valves, meters, and etc. It is further understood and agreed that the property adjacent to or capable of connecting to the Force Main, herein referred to, does not lie within the boundaries of the Service Area.

The Force Main herein described shall be primarily used and maintained by the District for the purpose of transporting sewage from the Service Area to the Treatment Plant. The parties agree that the City shall have the exclusive right to access and utilize the Force Main between the boundaries of the Service Area and the Treatment Plant. Any user outside the boundary of the Service Area who are hooked into the Force Main shall be customers of the City only. The City shall pay for the costs to increase the Force Main beyond District needs.

The District's Engineer known hereafter as the Engineer shall notify the City of the additional cost necessary to accommodate the use of the Force Main by the City. Within fifteen (15) days of notification by the Engineer the City shall be required to elect whether it wishes to pay the additional amount. In the event the

the additional cost to accommodate its use of